

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

LAMONA E. ANGEL

Respondent

v.

RICHARD CHARLES ANGEL

Appellant

DOCKET NUMBER **WD72918**

DATE: November 22, 2011

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Wesley Brent Powell, Judge

Appellate Judges:

Division One
Alok Ahuja, P.J., Thomas H. Newton, and James Edward Welsh, JJ.

Attorneys:

Dennis Owens, Kansas City, MO

Counsel for Appellant

Attorneys:

Ross Myers, Lee's Summit, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

LAMONA E. ANGEL, Respondent, v.
RICHARD CHARLES ANGEL, Appellant

WD72918

Jackson County

Before Division One Judges: Ahuja, P.J., Newton, and Welsh, JJ.

The Angels were married in 1985. During their marriage, they operated an auction service and other businesses, and acquired a number of assets. Ms. Angel filed for dissolution in 2009 and sought division of the marital property and maintenance. After a hearing, the trial court awarded a roughly equal division of the marital property, net of debt; awarded Mr. Angel the parties' businesses; and awarded Ms. Angel maintenance. Mr. Angel appeals the maintenance award.

AFFIRMED

Division One Holds:

In his sole point on appeal, Mr. Angel argues the trial court erred in awarding maintenance because Ms. Angel did not meet the threshold test for a maintenance award under subsection 452.335.1, which requires that the spouse seeking maintenance: “(1) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and (2) Is unable to support himself through appropriate employment” Mr. Angel does not raise a contest to the amount of maintenance awarded under subsection 452.335.2.

We do not agree with Mr. Angel. Ms. Angel testified that her only income was from social security in the amount of \$316 per month. The uncontroverted testimony establishes that Ms. Angel's reasonable needs are at least \$1,326.25 per month, but the trial court was not bound by this testimony. It could have determined her reasonable needs were a higher amount. Neither party requested the trial court make specific findings.

Mr. Angel then argues the trial court failed to account for income from an investment account, a CD, and a house that he argues could be rented. While we agree interest income could be imputed from the investment account, imputing this interest does not change the result in this case. We do not agree that interest on the CD should have been imputed, as no evidence demonstrates that it is a cash or cash-like fund. Evidence of the house potentially being rented was too speculative to justify imputing \$950 a month rental income.

Finally, Mr. Angel argues Ms. Angel could meet her reasonable needs through employment as a barber or auctioneer. The statute directs the court to consider “appropriate employment,” not “any” employment. Ms. Angel was 62 at the time of trial and had last worked as a barber 22 years ago. Although Ms. Angel had earned \$100 the prior summer running an auction, this was insufficient to show that Ms. Angel could meet her reasonable needs by running auctions. Because the trial court did not err in finding that Ms. Angel met the threshold requirements under subsection 452.335.1, its judgment is affirmed.

Opinion by Thomas H. Newton, Judge

November 22, 2011

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